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REMARKS

The Examiner has rejected Claims 1-21 and 26-31 under 35 U.S.C. 103(a) as being unpatentable over Norton AntiVirus Corporate Edition 7.0 released 1999. Applicant respectfully disagrees with such rejection, especially in view of the amendments made to independent Claims 1, 27, 28 and 30. Specifically, applicant has amended such claims to incorporate the subject matter of dependent Claim 26.

With respect to each of the independent claims, the Examiner has relied on Norton's LiveUpdate (page 8), Cures (page 9), and updates by email (page 12) to make a prior art showing of applicant's claimed "executing the full-release scanner update on the computers for security scanning" and "executing the pre-release scanner update on the computers for testing purposes" (see this or similar, but not identical language in each of the independent claims).

Applicant respectfully asserts that Norton only teaches updates that include update definitions that are downloaded and installed on user computers for use in security scanning (see page 8). However, such updates are NOT pre-release scanner updates, as claimed by applicant, since they are only used for security scanning, and not for "testing purposes," as claimed. In fact, Norton expressly discloses that "[c]opies of infected items are forwarded from the Quarantine on the client machine to the centralized Quarantine..[and are then] submit[ted]...to SARC and...a virus definitions update [is received] by email [at the centralized Quarantine]" (see page 11). Furthermore, "[a]fter applying the update on the centralized Quarantine to test and confirm the update, the updates are rolled out to client machines" (page 11).

Thus, in Norton the updates are only tested at a central Quarantine before being distributed to client machines. Applicant, on the other hand, claims that "the pre-release scanner update [is executed] on the computers for testing purposes" (emphasis added). Such computers, as claimed by applicant, are the same computers as the full-release scanner update is executed on for security purposes. Thus, nowhere in the entire Norton reference is there any mention of pre-release scanner updates in the specific context claimed by applicant.

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Still with respect to each of the independent claims, the Examiner has relied on the testing of the updates at a centralized Quarantine to make a prior art showing of applicant's claimed "transmitting results of the testing from the computers to the server utilizing the network" (see this or similar, but not identical language in each of the independent claims). Applicant respectfully emphasizes that the testing and confirming of the updates in Norton is completed at the centralized Quarantine, and then the confirmed updates are distributed to client computers (see page 11, lines 1-2). Thus, in Norton the results of the testing must be transmitted from the centralized Quarantine where the testing is completed, and not "from the computers to the server utilizing the network," as claimed by applicant (emphasis added).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the prima facie case of obviousness has not been met since the prior art reference fails to teach or suggest all of the claim limitations, as noted above. Nevertheless, despite such paramount deficiencies and in the spirit of expediting the prosecution of the present application, applicant has substantially incorporated the subject matter of Claim 26, as originally incorporated into independent Claims 29 and 31, into independent Claims 1, 27, 28 and 30.

With respect to Claim 26, the subject matter of which is presently incorporated in each of the independent claims, the Examiner has relied on his rejection of Claim 1 to make a prior art showing of applicant's claimed "utilizing the results to modify the pre-release scanner update before releasing the pre-release scanner update as a full-release scanner update" (see this or similar, but not identical language in each of the independent claims). Applicant respectfully asserts that Norton only discloses that a centralized Quarantine tests and confirms an update

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before distributing it to client machines (see page 11). However, there is no teaching in Norton of utilizing the results of the testing "to modify the pre-release scanner update," in the specific manner claimed by applicant (emphasis added). Again, a notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

The Examiner's rejections are also deficient with respect to the dependent claims, since such rejections also do not meet each and every element of the prima facie case. For example, with respect to Claims 2 and 3, the Examiner has relied on Norton's LiveUpdate feature (page 8) to make a prior art showing of applicant's claimed techniques "wherein the full-release scanner update and the pre-release scanner update are distributed simultaneously" (Claim 2) and "wherein the full-release scanner update and the pre-release scanner update are distributed together" (Claim 3).

However, applicant notes that such updates provided by LiveUpdate are only executed for security scanning. Since, Norton does not disclose distributing a pre-release scanner update executed for testing purposes, as argued with respect to the independent claims, Norton also does not disclose distributing simultaneously or together "the full-release scanner update and the pre-release scanner update," in the context claimed by applicant.

With respect to Claim 9, the Examiner has relied on Norton's disclosure of SARC (pages 8-9) to make a prior art showing of applicant's claimed technique "wherein the results are transmitted to a quality assurance administrator." However, only infected files are transmitted from a client's Quarantine to SARC. In view of this, it is clear that Norton does not teach any sort of pre-release testing "results [that are] transmitted to a quality assurance administrator," as claimed by applicant (emphasis added).

With respect to Claim 10, the Examiner has relied on Norton's disclosure of the development of new antivirus protection and the distribution of such updates (page 12) to make a prior art showing of applicant's claimed "comparing results of the execution of the full-release scanner update and the pre-release scanner update." Applicant respectfully asserts that simply creating and distributing updates where such updates are based on newly infected files, as in

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Norton, does not meet applicant's specific claim language, namely "<u>comparing results</u> of the execution of the <u>full-release scanner update</u> and the <u>pre-release scanner update</u>."

Since at least the third element of the prima facie case of obviousness has not been met, a notice of allowance or a specific prior art showing of all of the claim limitations, in the context of the remaining elements, is respectfully requested.

Still yet, applicant brings to the Examiner's attention the subject matter of new Claims 32-35 below, which are added for full consideration:

"further comprising recording operations of the full-release scanner update during the execution of the full-release scanner update" (see Claim 32);

"wherein the recorded operations are performed by the pre-release scanner update during the execution of the pre-release scanner update" (see Claim 33);

"wherein the operations are recorded in a queue" (see Claim 34); and

"wherein results of the operations during the execution of the full-release scanner update and the pre-release scanner update are compared" (see Claim 35).

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

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In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P017/01.062.01).

Respectfully submitted,
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